<div align="right">**ARC 7017B**</div>

HUMAN SERVICES DEPARTMENT[441]

<div align="center">**Notice of Intended Action**</div>

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 81, "Nursing Facilities," Iowa Administrative Code.

These amendments change the provisions for additional Medicaid reimbursement for nursing facilities related to the facility's performance as measured by ten indicators of quality care, as directed by 2008 Iowa Acts, Senate File 2425, section 33. This legislation requires the following changes:

• The amount used to calculate the accountability measure add-on is reduced to 80 percent of the sum of the direct care patient-day-weighted median and the non-direct care patient-day-weighted median (down from 100 percent).

• The additional payment for accountability measures will be withheld from the facility's weekly payment remittance and will instead be made through an add-on to each claim at the end of the state fiscal year (June 30).

• A facility's accountability measure add-on will be reduced by 25 percent for each deficiency cited resulting in actual harm to a resident at a scope and severity level of G pursuant to the federal certification guidelines. If the facility fails to cure any level G deficiency cited within the time required by the Department of Inspections and Appeals, the accountability measure add-on will be reduced to $0.

• A facility will forfeit its accountability measure add-on if the facility receives a deficiency due to instances of actual harm or immediate jeopardy at a scope and severity level of H or higher pursuant to the federal certification guidelines.

In the Centers for Medicare and Medicaid Services' nursing home survey and certification system, a level G deficiency is an isolated instance of actual harm to a resident that does not constitute "immediate jeopardy" to the resident's health or safety. A level H deficiency is a pattern of incidents of actual harm of the same severity. Higher levels include I, widespread instances of actual harm but no immediate jeopardy; J, an isolated instance of immediate jeopardy to a resident's health or safety; K, a pattern of such instances; and L, widespread instances of immediate jeopardy. Survey findings at level F (widespread instances of deficiencies that caused no actual harm but had a potential to cause more than minimal harm) and levels H through L indicate a substandard quality of care if the requirement that is not met falls under federal regulations on resident behavior, quality of life, or quality of care.

In addition, these amendments make a technical change to subrule 81.36(5) to update the name of the Iowa Board of Nursing Home Administrators.

These amendments do not provide for waivers in specified situations, since these are statutory provisions.

These amendments were also Adopted and Filed Without Notice and are published herein as **ARC 7016B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendments on or before August 20, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.4 and 2001 Iowa Acts, chapter 192, section 4, as amended by 2008 Iowa Acts, Senate File 2425, section 33.

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